

CHAPTER NO. 952

SENATE BILL NO. 3102

By Southerland, Ketron, Kilby, Miller

Substituted for: House Bill No. 3000

By Hawk, Newton

AN ACT to amend Tennessee Code Annotated, Title 70, Chapter 7, relative to liability of landowner for recreational activities.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 70, Chapter 7, is amended by adding the following sections as a new part thereto:

70-7-201. The general assembly recognizes that persons who participate in whitewater rafting may incur injuries as a result of the risks involved in such activity. The general assembly also finds that the state and its citizens derive numerous economic and personal benefits from such activity. It is, therefore, the intent of the general assembly to encourage whitewater rafting by limiting the civil liability of those involved in such activity.

70-7-202. As used in this part, "whitewater rafting" means whitewater rafting on a fast-flowing river which is located in a national forest.

70-7-203. Except as provided in § 70-7-204, a whitewater rafting company shall not be liable for an injury to or the death of a participant resulting from the inherent risk of whitewater rafting. Except as provided in § 70-7-204, no participant or participant's representative shall make any claim against, maintain an action against, or recover from a whitewater rafting company for injury, loss, damage, or death of the participant resulting from any of the inherent risks of whitewater rafting.

70-7-204. Nothing in § 70-7-203 shall prevent or limit the liability of a whitewater rafting company if such company or an employee of such company:

(1) Provided the equipment and knew or should have known that the equipment was faulty, and such equipment was faulty to the extent that it did cause the injury; or

(2) Provided the equipment and failed to make reasonable and prudent efforts to determine the ability of the participant to engage safely in the whitewater rafting activity and determine the ability of the participant to safely manage the equipment based on the participant's representations of the participant's ability; or

(3) Commits an act or omission that constitutes gross negligence or willful or wanton disregard for the safety of the participant, and that act or omission caused the injury; or


(4) Intentionally injures the participant.

SECTION 2. Tennessee Code Annotated, Section 70-7-102, is amended by adding the language "skateboarding", between the word "sightseeing", and the words "animal riding".

SECTION 3. This act shall take effect July 1, 2004, the public welfare requiring it, and is repealed effective July 1, 2006.

PASSED: May 21, 2004


JOHN S. WILDER
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 15th day of June 2004


PHIL BREDESEN, GOVERNOR